



# International Labor Rights Forum

2001 S Street NW, Suite 420, Washington, DC 20009

## Precarious Work:

How temporary jobs and subcontracting undermine women, migrants and all workers' rights to decent work worldwide

*Emelita, 49, started to work at a Dole Philippines pineapple processing facility in 1979. After 11 years, she was compelled to voluntarily "resign" from the plant. Regular workers were being replaced by "contractuals". The company was busting the workers' union. More than 3,000 workers resigned. Today, her husband, Romeo, still works at the processing plant and one of their five children labors as a harvester. Dole provided jobs, yes, but she asks, does the family have a future?*

### What is Precarious Work?

Employers around the world are creating precarious forms of work to destroy unions, cut labor costs and avoid being held responsible for their own employees. Precarious work is created when permanent, regular jobs are replaced by subcontracted labor and temporary, short-term jobs. Workers around the world are uniting to bring back decent jobs.

Jobs in all sectors around the world are being outsourced or subcontracted from employment agencies or labor "cooperatives" at a rapid rate. Many jobs have become temporary and workers have been wrongly classified as independent contractors. These workers are subject to job instability, lower wages and more dangerous working conditions as they are denied the rights and benefits of regular workers. Temporary and subcontracted workers rarely receive healthcare or retirement benefits and are denied the right to join a union. It is not uncommon for subcontracted workers to receive a fraction of the legal minimum wage for well over eight hours of work because subcontractors illegally swallow a large percentage of the wages paid to them by companies seeking labor. Even when workers are granted the right to unionize, they fear being fired when they know their jobs are impermanent. Unionized workers also suffer because with fewer members, they have less power to bargain for better conditions.

ILO officials at the Global Unions forum, "Towards Social Justice: applying labour standards to precarious workers" stressed that the impact of precarious work is greatest on women, migrants, and young people.<sup>1</sup> This document provides a number of case studies on how US corporations abuse contract labor and how women and migrants see the effects. Precarious work is forcing all workers deeper and deeper into poverty as they see good jobs and a path towards the middle class disappear.

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<sup>1</sup> <http://www.global-unions.org/IMG/pdf/WelcomeAddressPrecariousWorkForum.pdf>



## Corporate Connections

### Case Study: Coca-Cola in Colombia

Coca-Cola in Colombia was once known for hiring paramilitaries to kill their union leaders. Now Coca-Cola is taking a different approach to destroying the union by indirectly contracting out the majority of its workforce. A July 2008 ILO mission to investigate labor relations and working conditions at several Coca-Cola bottling plants found a clear difference between the employers' relationship and treatment of directly employed workers as compared to outsourced workers. In one Bogota plant, 70% of the operating staff and 85% of the distribution staff is now outsourced, contracted through labor "cooperatives," employment agencies or considered independent contractors. A large number of these workers were formerly direct employees but the company forced them to change their status.

These outsourced workers do not have the right to unionize and thus, the unions in the majority of bottling plants are slowly disappearing. The ILO recommends that Coca-Cola limit the number of contract workers and to assure that current contract workers are provided the same rights and benefits as regular workers. The union in one plant has dealt with the problem by limiting the number of contract workers allowed in their collective bargaining agreement.<sup>2</sup>

### Case Study: Lipton Tea Workers in Pakistan



Lipton tea is amongst Unilever's top "billion dollar brands", the 2 dozen brand products that generate 75% of corporate revenue. Unilever has begun a strategy of destroying unions across its workforce by replacing regular workers with temporary workers. The Lipton tea factory in Khanewal, Pakistan employs 22 permanent workers but another 723 workers are hired through six contract labour agencies. The majority of these workers have worked for more than 10 years at the Khanewal factory but since they're not formally employed by Unilever, they are barred from joining a union of Unilever workers and bargaining with Unilever as their employer.

The small number of permanent workers receive a monthly base wage \$226 a month. The basic wage for those providing disposable, "temporary" work is less than three dollars a day for most workers. Where permanent workers receive double for overtime/holiday work, agency workers simply receive the basic hourly wage. From one week to the next, they do not know their assignments or work schedules - or whether they will have work.

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<sup>2</sup> See Report from ILO Evaluation Mission: Coca Cola Bottling Plants in Colombia, October 8, 2008, International Labor Organization, <http://www.laborrights.org/end-violence-against-trade-unions/colombia/resources/2217>

Most significantly, these workers are fighting for their right to join the union so that they can move out of a cycle of poverty.<sup>3</sup>

## **Women and Precarious Work**

Numerous case studies have shown that women are in the most precarious positions at work. Subcontractors and recruiters (often hired by large companies) working for temporary employment agencies or labor “cooperatives” target women, assuming that they are less likely to stand up for their rights and have less formal work experience. Women are often newer to the workforce than men or have less education, so they are stuck in the lowest rung of the employment ladder where jobs are precarious. Women agricultural workers are particularly exploited.

### Case Study: Women in Agriculture

Take the story of Rosemary, a Peruvian temporary agricultural worker (harvesting asparagus, artichokes, and grapes for export to the US). She moves around from temporary job to temporary job, depending on seasonal needs. Rosemary was unemployed for a long period of time after the economic crisis because she had no stable job to rely on.



“I am paid weekly, according to how much I produce. It’s \$48 a week in high season, in low season I earned between \$13 and \$16 a week. There’s no fixed monthly salary, it’s only determined by how much we produce and how much we advance. We would be out working for 14 to 16 hours a day. I worked 9 months in the fields but not continually. I had to stop certain weeks and start again the next week. When there was a lot to produce, I worked all day, 112 hours a week, 448 hours a month more or less, without taking Sundays off, getting paid nothing for overtime because they pay is according to how much we produce. I was illegally fired also for being pregnant.”<sup>4</sup>

Companies can get away with treating temporary women workers like Rosemary because without permanent contracts and worker representation (through unions or worker-owned cooperatives) workers fear losing their jobs. In the developing world where unemployment is high and small farmers are displaced, many workers will do anything to earn a modest income and companies, including US companies, take advantage of their impoverished situation. Rosemary was easily fired for being pregnant because she had no union contract to secure her job. In Peru, women are entitled to various maternity benefits but without job stability, employer accountability and union representation these laws often go unenforced.

### Women take action!

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<sup>3</sup> [http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=5622&view\\_records=1&ww=1&en=1](http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=5622&view_records=1&ww=1&en=1)

<sup>4</sup> Se, Rosemary’s Story, Interview Conducted by Asociacion Aurora Vivar.

Women workers who have organized have been able to avoid being replaced by subcontracted workers. Amanda Camacho, a Colombian cut-flower worker recently led a successful union organizing effort at her company, Papagayo Farms. The union is nearly 90% women and Amanda is one of the many single mothers. Workers decided to organize when they saw their senior co-workers being replaced by workers from temporary agencies or labor “cooperatives,” a common union busting mechanism in Colombia. A survey conducted in 2008 found that 35% of cut-flower workers in the main cut-flower growing region of Colombia had been subcontracted out through employment agencies or work cooperatives. Because Amanda and her co-workers successfully avoided being replaced, they have been able to negotiate for a modest raise, benefits and job stability. Single mothers particularly benefit from unions as they struggle to raise a family with one income.

### **Migrants and Precarious Work**

Internal and international migrants occupy a significant number of workers subject to subcontracting schemes and precarious jobs. Migrants, like women, are subject to the most exploitation as they search for any work in unfamiliar terrain, permanent or not.

Agricultural sectors tend to rely heavily on subcontractors who recruit migrants across borders. Migrants are often picked up by recruiters and have little knowledge of who they are working for as they indirectly employed. Because many are undocumented, they are less likely to assert their rights for fear of being deported. Companies deny responsibility for labor rights violations endured by subcontracted workers, many of whom are migrants. Migrant farmworkers or guest workers in the U.S. do not even have the same rights as regular U.S. workers. They do not have the same rights to unionize to bargain for a better wage and are exempted from many normal wage and hour laws.

#### *Case Study: Nicaraguans in the Costa Rican pineapple sector*

The majority of workers producing the fresh pineapple found in U.S. supermarkets under Dole, Del Monte or Chiquita brands are Nicaraguan migrants working on Costa Rican pineapple plantations.<sup>5</sup> Companies will pay subcontractors to rent out and hire workers on pieces of unregulated land that is not under the parent companies’ jurisdiction but is instead under the subcontractors’ name. Thus, workers have no direct connection to the



company, and the company has no legal responsibility to them, though the subcontractors take orders from foremen who are directly hired by the company.<sup>6</sup> One worker disclosed that in the year 2000, a subcontractor was paid the equivalent of \$7.22 a hectare by the company to apply pesticides to the crops. The subcontractor then paid the worker \$1.71 a hectare to perform the work, thus keeping 75% of the income.<sup>7</sup>

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<sup>5</sup> See, “The Sour Taste of Pineapple: How a Growing Export Industry Undermines Workers and their Communities,” ILRF, October 2008

<sup>6</sup> Email coorespondence between ILRF and Didier Leiton, 2/29/08.

<sup>7</sup> Leiton, 2/29/ 08.

The following is an excerpt from a letter from Nicaraguan migrant worker,

“The company [Pina Frut owned by one Costa Rica’s largest land owners, Grupo Acon], denies workers their job security, the right to belong to a trade union organization, decent treatment, a living wage and reasonable working hours..Others still work here in Piña Frut but for contractors who do not always pay them the legal minimum wage and have to work very long hours...We believe that it is time to inform the Nicaraguan government about Nicaraguan migrants who come to Costa Rica and are exploited and ripped off by unscrupulous businessmen who make legal deductions for healthcare cover from workers' wage packets and then pocket these themselves; by businessmen who use contractors to avoid paying holidays, the thirteenth month, healthcare contributions etc. To be clear Piña Frut does pay its healthcare contributions, holidays etc, but it also pays contractors to avoid these responsibilities.”

### **What are labor “cooperatives”?**

Workers around the world, particularly in countries with notoriously anti-union governments such as Colombia and the Philippines, are being pushed into labor “cooperatives.” Labor cooperatives have become a common way for employers to put a positive sounding name over the ugly practice of subcontracting and outsourcing. Labor cooperatives are essentially employment agencies, owned by wealthy elites with business interests in mind over the interests of workers. They do not resemble *worker-owned cooperatives*, a way to empower small coffee or cocoa farmers, for example. Workers often join cooperatives because they have no choice and many do not understand the implications of joining.

#### *The Colombian Sugar Sector: Labor Cooperatives, Low Wages and Safety Concerns*



Colombia has a lucrative sugar industry which has increasingly benefited from tax break incentives as demand for sugar based biofuel increases. The majority of Colombia’ sugar cane cutters are Afro-Colombian and are forced into an indirect relationship with their employers through labor cooperatives known as “associative cooperatives.”

Laborers receive a wage that is 45% lower than those hired directly by the sugarcane firms because they are paid based on the quantity of cane they produce. Sugarcane workers in cooperatives must deduct funds for primary education, healthcare, and other social benefits from their salaries because they are not legally entitled to any of the regular benefits allocated to regular workers. The deductions applied to the workers’ gross salaries (allegedly for social security benefits and Associative Cooperatives’ maintenance costs) are actually transferred to sugarcane entrepreneurs, in terms of subsidies, and to board members and employees of the associative cooperatives.

Sugarcane cutters are heavily exploited. They work up to 16 hours a day without a break. They suffer from serious health issues since their labor leads to physical debilitation and fatigue, permanent exposure to the harsh climate, permanent contact with chemicals utilized in the industrial processing of the crop, and exposure to high temperatures and ashes from the burning cane. Given their indirect employment status, they have cannot legally demand better conditions from their employers because they are not covered by regular labor laws.<sup>8</sup>

Workers have tried to improve their conditions by organizing and mobilizing, regardless of the fact that they cannot officially unionize and bargaining collectively. In the fall of 2008, 10,000 Colombian Sugar Cane Cutters staged a 56 day strike in protest of horrendous working conditions. After striking, they won a better wage system and other benefits, but will still be denied the right to permanent employment and a direct contract with their employer.

### **Precarious Work and the Global Economic Crisis**

In the midst of a global economic crisis, market instability will fall hard on those millions of workers with insecure jobs. Contract, temporary or casual workers without union representation have no bargaining power to negotiate for severance pay or other safeguards when layoffs occur and such workers are the first to become unemployed. There is a danger that companies will likely use the excuse of the international recession to further erode labor rights and reduce regular permanent jobs. Even after the recession ends, it is not unlikely that companies will continue to outsource their employees through contract agencies and short-term work arrangements. The ILO decent work agenda is based on the notion that stable jobs are the key to building the middle class needed for a sustainable economy in the future. Workers trapped in temporary forms of employment are less likely to stimulate the economy through spending because they cannot count on a constant source of income. Employers must contribute to economic sustainability by hiring employees on direct, permanent basis.

### **Union and Government Initiatives**

After long struggles, some unions have been able to include contract workers in collective bargaining arrangements while others have successfully demanded that employers' reduce or eliminate the use of contract labor and other forms of precarious work. International unions in all sectors, particularly the IUF, have begun global campaigns to end precarious work and promote decent, permanent jobs.

Various countries have passed legislation to eliminate the use of employment agencies or grant full rights to contract workers. China passed a new Labor Contract Law in December 2007 that mandated non-fixed-term contracts for long-time employees and

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<sup>8</sup> Mario Pérez Rincón, Paula Álvarez Roa "Social and environmental debt from the sugarcane business in Colombia." Corporate Social Responsibility and implicit subsidies in the sugarcane industry," 2009



reinforced existing wage and hour laws, including overtime regulations. In October 2007, the Chinese Ministry of Labor and Social Security issued Regulations on Employment Services and Employment Management that sought, among other things, to rein in abuses by sub-contracted labor recruitment companies.

Chile, Namibia, and Ecuador have moved legislation to this effect. Enforcement of these laws will be the biggest challenge. The Colombian government also reacted to public pressure surrounding the problems of subcontracting by passing a decree to curb the use of labor cooperatives. Groups on the ground have said the decree has done nothing in practice and subcontracting continues to be a major problem.

Cambodia is considering moving legislation in a negative direction regarding temporary contracts. Cambodia has made modest progress in promoting worker rights over the last ten years. This is now being severely undermined by the garment industry's wholesale shift to use of temporary work contracts – and, most recently, by a manufacturer-backed attempt to remove all limitations on such arrangements through amendment to the country's labor code.

The ILO convention on Private Employment Agencies, No. 181 says that governments should ensure that private employment agencies must be allowed to join trade unions and bargain collectively and entitle agency-hired workers to regular workers' rights. This convention can be used as a tool to empower agency workers but most countries have not yet ratified it.

## **Resources and Precarious Work Campaigns**

*ILRF's Freedom at Work, Contract Labor and Precarious Work webpage:*

<http://www.laborrights.org/labor-rights/contract-labor-and-quot-precarious-work-quot>

*"Outsourcing and Casualization in the Food and Beverage Industry: The Threat to Workers and Unions and Union Strategies for Fighting Back"* published by IUF outlines the various strategies employed by multinational food companies to eliminate unions by contracting out their workforce.

<http://www.laborrights.org/files/IUFOutsourcingManual-e.pdf>

*This webpage is dedicated to precarious work:*

<http://www.precariouswork.eu/about/What-is-precarious-work>

*The Global Unions campaign, Precarious Work Affects Us All can be found Here:*

<http://www.global-unions.org/spip.php?rubrique69>

*The IUF Casual-T Campaign to combat Unilever's disposable jobs can be found here:*

<http://www.iuf.org/casualtea/>